

PT 01-74

Tax Type: Property Tax

Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

RIVERSIDE
MEDICAL CENTER
APPLICANT

v.

ILLINOIS DEPARTMENT
OF REVENUE

No. 99-PT-0035
(98-46-0047)
(98-46-0049)
(98-46-0052)
(98-46-0056)

P.I.N.S: 02-15-323-007
02-15-323-008
11-18-100-008
09-08-302-004

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Gregory A. Deck of Deck & Baron on behalf of the Riverside Medical Center (hereinafter the “applicant”); Ms. Brenda L. Gorski, Assistant State’s Attorney for the County of Kankakee, on behalf of the Kankakee County Board of Review (hereinafter the “Board”).

SYNOPSIS: These consolidated proceedings raise the following issues with respect to real estate identified by Kankakee County Parcel Index Numbers 02-15-323-007, 02-15-323-008, 11-18-100-008 and 09-08-302-004: first, whether the non-leased portions¹ of parcels 02-15-323-007, 02-15-323-008 and 11-18-100-008 were "exclusively used for charitable or beneficent purposes ...," within the meaning of Section 15-65 of the Property Tax Code, 35 ILCS 200/1-1 *et seq.* (hereinafter the “Code”), during the

1. The leased portions are not at issue herein because the parties have stipulated that they are not in exempt use. Tr. p. 25.

1998 assessment year; and second, whether the entirety² of parcel 09-08-302-004 was "exclusively used for charitable or beneficent purposes ...," within the meaning of Section 15-65 during the 1998 assessment year. The underlying controversy arises as follows:

Applicant filed a series of Applications for Property Tax Exemption with the Board, which, after due review thereof, recommended to the Illinois Department of Revenue (hereinafter the "Department") that all of the requested exemptions be denied *in toto*. The Department then issued initial determinations herein, which found as follows:

PROPERTY	DETERMINATION
02-15-323-007	<ul style="list-style-type: none">• 87.4% of building & site exempt;• Remaining 12.6% thereof taxable – property not in exempt use
02-15-323-008	<ul style="list-style-type: none">• Same as above
11-18-100-008	<ul style="list-style-type: none">• 94.6% of building & site exempt;• Remaining 5.4% thereof taxable – property not in exempt use
09-08-302-004	<ul style="list-style-type: none">• Entire property exempt

Dept. Group Ex. No. 2.

The Board filed timely appeals to all of these determinations and later presented evidence at a formal evidentiary hearing. Following submission of all evidence and a careful review of the record, I recommend that all disputed portions of the aforementioned determinations be reversed *in toto*.

2. The entirety of this property is at issue because no part of it was leased during the tax year in question.

FINDINGS OF FACT:

1. The Department's jurisdiction over these matters, and its positions therein, are established by the admission of Dept Gr. Ex. Nos. 1, 2.
2. The Department's positions in these matters are as follows:
 - (a) 87.4% of the building and site situated on parcels 02-15-323-007 and 02-15-323-008 are exempt; but, (b) the remaining 12.6% thereof are taxable due to lack of exempt use;
 - (a) 94.6% of the building and site situated on parcel 11-18-100-008 are exempt; but, (b) the remaining 5.4% thereof are taxable due to lack of exempt use;
 - 100% of parcel 09-08-302-004 is exempt.

Dept. Group Ex. No. 2.

3. The location of, and improvements situated on, each of the above-referenced parcels is as follows:

P.I.N.(S).	LOCATION	IMPROVEMENT
02-15-323-007 & 02-15-323-008	395 N. Locust Manteno, IL	8,500 sq. ft. medical clinic
11-18-100-008	3761 N. Route 1-17 Momence, IL	5,000 sq. ft. medical clinic
09-08-302-004	338 Larry Power Road, Bourbonnais, IL	8,500 sq. ft. medical clinic

Dept. Group Ex. No. 1.

4. Applicant is an Illinois not-for-profit corporation organized for purposes of establishing, operating and maintaining health care facilities. Stipulation Ex. Nos. 2, 3.³
5. Applicant's main hospital facility, located in Kankakee, IL is exempt from real estate taxation under terms of the Department's determination in Docket No. 88-46-9. Administrative Notice.
6. Applicant obtained ownership of the properties in question by means of the following instruments:

P.I.N.(S).	INSTRUMENT	DATE
02-15-323-007 & 02-15-323-008	corporation deed	March 17, 1995
11-18-100-008	warranty deed	July 15, 1996
09-08-302-004	corporation deed	March 17, 1995

Stipulation Group Ex. Nos. 6, 7, 8.

7. Applicant operates medical clinics at all three of the properties in question. The health care services offered at, and the operations of, each of the three clinics are substantially similar to those of the others. Tr. pp. 21-22.
8. Each of the clinics are staffed by physicians employed by applicant who neither engage in the private practice of medicine outside the scope of their employment nor receive any compensation other than their salaries. Tr. pp. 24, 26, 38.

3. Most of the exhibits received at hearing were admitted pursuant to a written stipulation of the parties, which was admitted as Stipulation Ex. No 1. All exhibits admitted pursuant to this stipulation shall, per the parties designation, be identified as "Stipulation Ex. No. _ ." All exhibits not admitted pursuant to this stipulation shall be designated in accordance with the applicable Departmental Regulations. See, 86 Ill. Admin. Code, ch. I, § 200.155(c).

9. Applicant did not submit any financial statements establishing income and expenses for the three individual clinics. Its corporate financial structure for 1998 was, however, as follows:

SOURCE	TOTAL	% of TOTAL⁴
REVENUES		
Net Patient Fee For Service Revenues	\$ 99,111,860.00	97%
Other Revenues ⁵	\$ 2,883,175.00	3%
TOTAL REVENUES	\$ 101,995,035.00	
EXPENSES		
Salaries and Employee Benefits	\$ 51,433,780.00	52%
Purchased Services & Supplies	\$ 26,041,316.00	26%
Depreciation & Amortization	\$ 7,780,763.00	8%
Provision for Doubtful Accounts	\$ 6,528,116.00	7%
Utilities	\$ 1,610,467.00	2%
Professional Fees	\$ 2,517,611.00	3%
Insurance	\$ 1,373,424.00	1%
Interest	\$ 1,737,652.00	2%
TOTAL EXPENSES	\$ 99,023,129.00	

Applicant Ex. No. 2; Tr. pp. 14-15, 84.

10. All of the service fees applicant charges are based on market rates for the services performed. Tr. pp. 85-86.
11. Approximately 16% to 17% of the patient fee revenues for each clinic are derived from Medicaid payments. These payments cover about 54% of applicant's costs for providing care to the patient. Applicant makes up the remaining 46% from its own resources. Tr. pp. 30-31.

4. All percentages shown herein are approximations derived by dividing the amounts shown in the relevant category by the total revenues or expenses shown on the relevant line of the fourth column. Thus, \$99,111,860.00/ \$101,995,035.00 = .9717 (rounded four places past the decimal) or 97%.

5. The source of these revenues appears to be rental income. Tr. p. 84.

12. Applicant is required, under terms of a Hill-Burton grant that it received to finance construction of its main hospital facility, to provide an amount of “charity care” that is equal to 200% of its grant amount. Tr. pp. 32-33.
13. Applicant also has its own “charity care” policy for assisting those who cannot afford to pay for services rendered. However, applicant allocates only 2% to 3% of its annual budget for “charity care.” Tr. pp. 69-76, 79-80, 95-96.
14. Persons who require such assistance are not told of its availability at the time of service. Nor does applicant advertise the availability of its “charity care.” Tr. pp. 69-76, 79-80.
15. Applicant does not conduct any type of pre-service screening to determine if a person is eligible for “charity” care. It does, however, require that its employees make collection efforts at the time of service. *Id.*
16. Applicant also makes collection efforts by sending out bills at regularly scheduled intervals. None of the information contained within the bills applicant sends out advises those who are unable to pay that “charity care” is available. *Id.*; Tr. p. 78.
17. If someone indicates they are unable to pay, either at the time of service or during the billing cycle, then applicant will provide that individual with an application for “charity care.” Not everyone who submits this application in fact receives such care, although some do receive assistance in applying for public aid. Tr. pp. 72-73.

CONCLUSIONS OF LAW:

An examination of the record establishes that all the disputed portions of the Department's determinations in these consolidated cases should be reversed *in toto*. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-65(a) of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.* 15-65(a), wherein all property owned by “institutions of public charity” are exempted from real estate taxation, provided that such property is “actually and exclusively used for charitable purposes and not leased or otherwise used with a view to profit.” 35 **ILCS** 200/15-65(a). The statutory requirements for this exemption are that: (1) the property be owned by an entity that qualifies as an “institution of public charity;” and, (2) the property be actually and exclusively used for charitable purposes.” *Id*; Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968).

The parties have stipulated that only the exempt use requirement is at issue herein. Tr. pp. 10, 17. That requirement is, per the plain meaning of Section 15-65, that the properties in question must be “exclusively” or primarily used for purposes that qualify as “charitable” within the meaning of Illinois law. 35 **ILCS** 200/15-65. Methodist Old People's Home, *supra*; Morton Temple Association, 158 Ill. App. 3d 794, 796 (3rd Dist.

1987); Albion Ruritan Club v. Department of Revenue, 209 Ill. App. 3d 914 (5th Dist. 1991).

By definition, charitable uses are those which benefit an indefinite number of people in a manner that persuades them to an educational or religious conviction that benefits their general welfare or otherwise reduce the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893). They are also undertaken by entities that: (1) have no capital stock or shareholders; (2) earn no profits or dividends, but rather, derive their funds mainly from public and private charity and holds such funds in trust for the objects and purposes expressed in its charter; (3) dispense charity to all who need and apply for it; (4) do not provide gain or profit in a private sense to any person connected with it; and, (5) do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Methodist Old People's Home v. Korzen, *supra*.

It is well settled that the word “exclusively,” as used in Section 15-65 means the primary use to which real estate is put. Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956); Morton Temple Association, *supra*; Albion Ruritan Club v. Department of Revenue, 209 Ill. App. 3d 914 (5th Dist. 1991); Pontiac Lodge No. 294 A.F. and A.M. v. Department of Revenue, 243 Ill. App. 3d 186 (4th Dist. 1993). Hence, incidental or secondary “charitable” uses are legally insufficient to satisfy the statutory exempt use requirement. *Id.*

Here, applicant allocates only 2-3% of its total budget for what it considers to be “charity care.” Tr. pp. 95-96. Such a *de minimus* percentage can scarcely be considered evidence of appropriate exempt use, especially considering that the 7% allowance for bad

debts disclosed in applicant's financial statements was nearly double the amount of its purported "charity" care.

Furthermore, the case of Highland Park Hospital v. Department of Revenue, 155 Ill. App.3d 272, 280-281 (2d Dist. 1987), establishes that what applicant refers to as "charity care" does not truly qualify as "charitable" within the meaning of Illinois law. The health care facility at issue in Highland Park Hospital was one that circulated advertisements to promote the center's services. Among other things, these advertisements described the available services and set forth appellant's hours. They also advised that care was available without appointment and that services were provided on a low-cost basis when compared to other facilities. However, the advertisements did not mention that free care was available to those unable to pay.

The court viewed this omission as a failure of proof because it raised doubts as to whether members of the general public in fact knew free care was available at the facility. Highland Park Hospital at 280. Here, it is all but factually impossible for members of the general public to know that applicant offers "charity care" because applicant does not advertise the availability thereof.

Nor does applicant engage in any other type of aggressive community outreach program that would take the place of such advertisements. *See, Randolph Street Gallery v. Department of Revenue*, 315 Ill. App.3d 1060 (1st Dist. 2000). In fact, applicant affirmatively places "obstacles" in the way of those seeking "charity care" by failing to make any mention of its availability unless and until someone requests financial assistance of their own volition. Under these circumstances, the holding in Highland Park Hospital is controlling as to lack of exempt use.

The facts that applicant accepts Medicaid payments and fulfilled the contractual obligation of its Hill-Burton do not alter the above conclusions. The former is merely a manifestation of applicant's managerial business decision to accept whatever assignments that Medicaid pays. As such, it does not prove anything about the manner in which applicant used the properties in question during 1998.

The same may be said of applicant's Hill-Burton grant obligation. Applicant's chief financial officer, David Schroeder, testified that applicant was provided with this grant in order to finance the construction of its main facility. (Tr. pp. 33-34). However, the properties currently in question are *not* located at that facility. Furthermore, Mr. Schroeder did not indicate whether applicant financed construction of the medical clinics situated on the properties currently at issue with Hill-Burton grants. As such, I fail to see how the terms and conditions of such grants could govern applicant's use of these particular properties.

Even assuming, *arguendo*, that applicant's use of these properties was so governed, it is not clear that the terms and conditions of the Hill-Burton grants would have compelled applicant to provide a level of "charity care" that exceeded the incidental amounts identified above. Therefore, the fact that applicant satisfied its Hill-Burton obligations does not affect the ultimate result herein.

Based on the foregoing, I conclude that all the disputed areas within the properties at issue were primarily used for the non-charitable purpose of providing health care-related services to those who could afford to pay for them. *Accord*, Wyndemere Retirement Community v. Department of Revenue, 274 Ill. App.3d 455 (2nd Dist. 1995). As such, these areas were not "exclusively" used for charitable or beneficent purposes, as

required by 35 **ILCS** 200/15-65, during the 1998 assessment year. Therefore, all the disputed portions of the Department's determinations pertaining to these areas should be reversed *in toto*.

WHEREFORE, for all the above-stated reasons, it is hereby recommended that:

- A. The entirety of real estate identified by Kankakee County Parcel Index Numbers 02-15-323-007, 02-15-323-008 not be exempt from 1998 real estate under Section 15-65 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq*;
- B. The entirety of real estate identified by Kankakee County Parcel Index Number 11-18-100-008 not be exempt from 1998 real estate under Section 15-65 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq*; and,
- C. The entirety of real estate identified by Kankakee County Parcel Index Number 09-08-302-004 not be exempt from 1998 real estate under Section 15-65 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq*.

10/25/01
Date

Alan I. Marcus
Administrative Law Judge